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7 **UNITED STATES DISTRICT COURT**
8 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
9 **FRESNO DIVISION**

10 JZON BUCKNER,

11 Plaintiff,

12 v.

13 KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

14 Defendant.

Case No. 1:22-cv-00505-EPG

**STIPULATION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES AND
EXPENSES PURSUANT TO THE EQUAL
ACCESS TO JUSTICE ACT; ORDER**

(ECF No. 26)

15 IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel,
16 subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount
17 of SEVEN THOUSAND DOLLARS AND 00/100 (\$7,000.00) under the Equal Access to Justice Act
18 (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C.
19 §1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by
20 counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).
21

22 After the Court issues an order for EAJA fees to Plaintiff, the government will consider the
23 matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586,
24 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on
25 whether the fees are subject to any offset allowed under the United States Department of the
26 Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine
27 whether they are subject to any offset.
28

1 Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that
2 Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses
3 and costs to be made directly to Counsel, pursuant to the assignment executed by Plaintiff. Any
4 payments made shall be delivered and made payable to Plaintiff's counsel, Jonathan O. Peña.

5 This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney
6 fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or
7 otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any
8 and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA
9 attorney fees in connection with this action.

10 This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek Social
11 Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the
12 EAJA.

13 Respectfully submitted,

14
15 Dated: May 31, 2023

/s/ Jonathan O. Peña
JONATHAN O. PEÑA
Attorney for Plaintiff

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17
18 Dated: May 31, 2023

PHILLIP A. TALBERT
United States Attorney
MATHEW W. PILE
Associate General Counsel
Office of Program Litigation
Social Security Administration

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22 By: * Marcelo N. Illarmo
Marcelo N. Illarmo
Special Assistant U.S. Attorney
Attorneys for Defendant
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24 (*Permission to use electronic signature
25 obtained via email on May 31, 2023).
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ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (ECF No. 26), IT IS ORDERED that fees and expenses in the amount of SEVEN THOUSAND DOLLARS AND 00/100 (\$7,000.00) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d) and costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C. §1920, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: **June 1, 2023**

/s/ Eric P. Grogg
UNITED STATES MAGISTRATE JUDGE